IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 20713 of 2004

Between:

Sri Venkataramana Ethipothala Padhakam Kodavatikallu, rep.by its President, Kandula Peda Venkateswara Rao, S/o Narayana, R/o Kodavati Kallu Village, Chandarlapadu Mandal, Krishna District Regd.No.217/1999

..... PETITIONER

AND

1 The District Collector, Krishna District, Machilipatnam
2 The Divisional Co-operative Officer, 2nd Floor,

A.M.C.Complex, Governorpet, Vijayawada,
3 Sri Devineni Venkataramana Praneethala Mutually

Aided Lift Irigation Coop. Society ltd. rep. by its President
Kodavatikallu, Chandarlapadu Mandal, Krishna District
(R3 is impleaded as per court order dt. 4-3-2005 in WPMP 29795 of 2004)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in seeking to interfere with the affairs of the petitioners society on the pretext of the purported enquiry through proceedings in R.C.No.3858/2004-F dated 19-10-2004 of the 2nd respondent at the instance of the 1st respondent as the same is illegal, arbitrary, and without jurisdiction as also article 14 and 19 of the Constitution of India.

Counsel for the Petitioner: Mr. P.PRABHAKAR RAO
Counsel for the Respondent Nos.1&2: GP FOR COOPERATION
Counsel for the Respondent No.3: Mr. B.NARASIMHA SARMA.

The Court made the following :

O R D E R:

Admittedly, the petitioner's association is a registered society registered under the Societies Registration Act, 1860, which is applicable to Andhra Area in the State of Andhra Pradesh.

A notice dated 19.10.2004 has been issued by the Divisional Co-operative Officer, in exercise of his powers vested under the A.P. Co-opertative Societies Act. It is stated that an application has been made by one M. Jaganmohanrao and 181 other members of the petitioner-society, about misutilisation of certain funds of the Society to an amount of Rs.15,77,747/- and the District Collector informed the 2nd respondent to enquire into the said application. Therefore, to enquire into the said application, the 2nd respondent issued the said notice directing the petitioner to produce the records from 1999-2000 to till 23.10.2004. Aggrieved by the said notice, the petitioner filed the writ petition stating that the 2nd respondent is not at all have any authority or jurisdiction to call for the records of the society under the said Societies Registration Act, 1860.

No doubt, the Societies Registration Act, 1860 has been repealed and the Andhra Pradesh Societies Registration Act, 2001 (for short 'the Act') has been enacted saving all the existing societies' orders, rules and regulations under the said Act. Under the Act, the 2nd respondent has no authority to take any action. The present Act is only applicable to the case of the petitioner.

'Registrar' means an Officer of the Registration Department, not below the rank of Sub-Registrar as may be specifically empowered by the Government to exercise the powers of a Registrar under the said Act. 'Registrar General' means the Inspector General Registration, appointed by the Government under Section 3 of the Registration Act, 1908. Therefore, the 2nd respondent is not at all the Registrar as defined under Section 2(l) of the Act. Under Section 7 of the Act, the Registrar of the Registration Department has got a power to register such societies. Under Section 12 of the Act, every society shall keep at its office the accounts, records and documents etc. If the accounts are not kept in proper and if they are in mis-management and if the accounts are not audited, it is for the concerned members of the said society to raise a dispute under Section 23 of the Act, under the provisions of the Arbitration and Conciliation Act, 1996 or may file an application in the District Court concerned. Even under the 'Act' either the Registrar or Registrar General are nothing to say in the internal management and disputes of the societies, it is only for the members of the committee to raise a dispute.

Therefore, I do not see any justification on the part of the 2nd respondent in directing the petitioner to produce the records. The Writ Petition is accordingly, allowed, keeping it open for any of the members to raise disputes in accordance with law. No order as to costs.

V. ESWARAIAH, J

14th March 2005.

BCS

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on Monday, this the fourteenth day of March, two thousand and five.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The District Collector, Krishna District, Machilipatnam,
2. The Divisional Co-operative Officer, 2nd Floor, A.M.C.Complex, Governorpet, Vijayawada,
3. Two C.Cs. to G.P. for Cooperation, A.P. High Court Buildings, Hyderabad. (OUT),
4. 2 CD copies,
5. 1 CC to MR.PRABHAKAR RAO, learned counsel for the petitioner.